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Attorney for Plaintiff
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

VAN A. PENA,

Plaintiff,

v.

JUDITH BJORNDAL,

Defendant.

Case No. C 00-04009 CW

STIPULATION AND ORDER EXTENDING
THE TIME FOR PLAINTIFF TO FILE A
MOTION FOR ATTORNEY'S FEES AND
COSTS

Date: February 12, 14
Courtroom: 2
Judge The Honorable Claudia Wilken
Trial Date November 4, 2013
Action Filed: October 31, 2001

NOW COME THE PARTIES, BY AND THROUGH THEIR RESPECTIVE
ATTORNEYS OF RECORD AND STIPULATE AS FOLLOWS:

Whereas:

1. Plaintiff's motion for fees and costs would ordinarily be due Wednesday, February 12, 2014 (i.e. fourteen days after entry of judgment);
2. Defendant Bjorndal intends to file post-trial motions for a motion for a judgment as a matter of law pursuant to Rule 50 of the Federal Rules of Civil Procedure and a new trial pursuant to Rule 59 of the Federal Rules of Civil Procedure;
3. The time for filing a motion for fees and costs is tolled pending the outcome of post-trial motions under Rule 50 or Rule 59. *Bailey v. County of Riverside* (9th Cir. 2005) 414

1 F.3d 1023, 1025; *Alvarado v. Federal Exp. Corp.*, 2008 WL 2340211, (N.D.Cal. Jun 05, 2008)
2 (NO. C 04-0098 SI, C 04-0099 SI); *Berry v. Hawii Exp. Service, Inc.*, 2007 WL 689474,
3 (D.Hawai'i Mar 02, 2007) (NO. 03-00385 SOMLEK);

4 4. Counsel for the parties have met and conferred and agreed to explore a resolution
5 of this matter, once Defendant has filed her post-trial motions, in an attempt to resolve all issues,
6 including, what if any attorneys' fees and costs to which Plaintiff may be entitled in light of the
7 jury verdict and any ruling by this Court's on post-trial motions and the possibility of an appeal of
8 the jury verdict in this case;

9 5. Allowing the parties to explore settlement prospects once all post-trial motions that
10 may be filed by Defendant are matter of record may avoid an unnecessary expenditure of time
11 and resources by the Court and the parties.

12 6. This is the first and only request to extend the time to file Plaintiff's motion for
13 fees and costs.

14 Therefore, the parties have agreed to request that the Court extend the time for Plaintiff to
15 file his motion for attorneys' fees and cost until fourteen (14) days after this Court rules on any
16 and all post-trial motions that Defendant may choose to file.

17 SO STIPULATED.

18
19 Dated: February 12, 14

On behalf of Plaintiff Van A. Pena,

20
21 /s/
LAWRENCE J. KING
22 *Attorney for Plaintiff*

23
24 Dated: February 12, 14

On behalf of Defendant Judith Bjorndal,


25
26 /s/
TERRY SENNE, DEPUTY ATTORNEY GENERAL
27 *Attorney for Defendant*

ORDER

Having reviewed and considered the parties' stipulation and finding good cause therefore, the Court hereby orders that the time for Plaintiff to file his motion for fees and costs is extended until thirty (30) days after this Court issues her ruling on and all post-trial motions.

IT IS SO ORDERED.

Dated: February 12, 2014


The Honorable Claudia Wilken
Chief Judge for the Northern District of California